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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,818	03/12/2004	Iain Lawson	0435.092A	8360
23405	7590	12/14/2005		
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			EXAMINER TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	
DATE MAILED: 12/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/799,818	Applicant(s) LAWSON	
	Examiner Hanh V. Tran	Art Unit 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/9/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over France 2706422 to Bertrand in view of WO 01/72601 to Noorby et al and USP 6,079,151 to Bishoff et al.

Bertrand discloses a pallet comprising a load-bearing deck, bearer member, an accessible component located beneath the load-bearing deck for the purpose of tracking the pallet. The differences being that Bertrand does not disclose the accessible component being a load-infestation monitoring device having a visible indicator and being provided in a recess within one of the bearer members and accessible from an

exposed end-face or side of the bearer member, the component being retained within the recess by various means.

Norrby et al teaches the idea of providing a package for keeping goods in a temperature decreased, preservative state and a temperature indicator. Bishoff et al further teaches the idea of providing a method and apparatus for monitoring and controlling pests, wherein the housing of the monitoring and controlling device being removable. Furthermore, it is well known in the art that pest infestation is a concern for goods transporting by pallet. Therefore, it would have been obvious to modify the structure of Bertrand by providing a pest monitoring and control housing in order to monitor pest infestation to goods on a pallet, wherein the housing of the monitoring and controlling device being removable, as taught by Norrby et al and Bishoff et al, since the references teach alternate conventional indicator structure, thereby providing structure as claimed. In regard to the monitoring device being provided in a recess within one of the bearer members and accessible from an exposed end-face or side of the bearer member, the component being retained within the recess by various means, it would have been obvious and well within the level of one skill in the art to modify the structure of Bertrand, as modified, by having the monitoring device being provided in a recess within one of the bearer members and accessible from an exposed end-face or side of the bearer member such that the indicator can be easily seen, and the component being retained within the recess by various means such that it can be easily removed when so is desired.

In regard to the method claims, since Bertrand, as modified, discloses all the elements recited in said method claims, it would have been obvious and well within the level of one skill in the art to perform the method steps recited therein.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lund, Smith, Jr., Halavis, Bowden et al, Anderson, Vick et al, Smith, and Kawai all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Hanh V. Tran', with a long horizontal flourish extending to the right.

HVT

December 11, 2005

**Hanh V. Tran**

**Art Unit 3637**